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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1H-2007-385

MARK L. FORD, R.C.P.
1106 W. Victoria Street
Rialto, CA 92376

A C C U S A T I O N

Respiratory Care Practitioner License No. 20578

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about January 4, 1999, the Respiratory Care Board issued Respiratory Care Practitioner License Number 20578 to MARK L. FORD, R.C.P. (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2008, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3710 of the Code states: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

6. Section 3750 of the Code states, in pertinent part:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“....”

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

“....”

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or terms of this chapter or of any provision of Division 2 (commencing with Section 500).

7. Section 3752 of the Code states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of any offense which substantially relates to the qualifications, functions, or duties of a respiratory care practitioner is deemed to be a conviction within the meaning of this article. The board shall order the license suspended or revoked, or

1 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
2 conviction has been affirmed on appeal or when an order granting probation is made
3 suspending the imposition of sentence, irrespective of a subsequent order under Section
4 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
5 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
6 accusation, information, or indictment.”

7 8. California Code of Regulations, title 16, section 1399.370, states, in
8 pertinent part:

9 “For the purposes of denial, suspension, or revocation of a license, a crime or act
10 shall be considered to be substantially related to the qualifications, functions or duties of
11 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
12 perform the functions authorized by his or her license or in a manner inconsistent with the
13 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
14 those involving the following:

15 “....”

16 “(c) Conviction of a crime involving driving under the influence or reckless
17 driving while under the influence.

18 “....”

19 COST RECOVERY

20 9. Section 3753.5, subdivision (a) of the Code states:

21 "In any order issued in resolution of a disciplinary proceeding before the board,
22 the board or the administrative law judge may direct any practitioner or applicant found to have
23 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
24 investigation and prosecution of the case."

25 10. Section 3753.7 of the Code states:

26 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
27 include attorney general or other prosecuting attorney fees, expert witness fees, and other
28 administrative, filing, and service fees."

1 11. Section 3753.1 of the Code states:

2 "(a) An administrative disciplinary decision imposing terms of probation may
3 include, among other things, a requirement that the licensee-probationer pay the monetary costs
4 associated with monitoring the probation. "

5 CAUSE FOR DISCIPLINE

6 (Conviction of a Crime)

7 12. Respondent is subject to disciplinary action under sections 3750,
8 subdivisions (d) and (g), and 3752, in that he was convicted of a crime substantially related to the
9 qualifications, functions, or duties of a respiratory care practitioner. The circumstances are as
10 follows:

11 A. On or about June 30, 2007, at approximately 10:41 p.m., respondent was
12 observed by officers from the Fontana Police Department, swerving in and out of lanes while
13 driving a vehicle. Officers initiated a traffic stop. A Preliminary Alcohol Screening revealed
14 respondent's blood alcohol content to be 0.23 percent. Respondent was taken into custody.
15 Approximately 2 hours later, a blood sample drawn from respondent revealed a blood alcohol
16 content of 0.20 percent.

17 B. On or about March 5, 2008, in the case of *The People of the State of*
18 *California v. Mark Leo Ford*, case number TVA700793, before the Superior Court of California,
19 County of San Bernardino, respondent pled guilty, pursuant to a plea bargain, of violating
20 Vehicle Code section 23152, subdivision (a) [driving under influence of alcohol].

21 DISCIPLINE CONSIDERATIONS

22 13. To determine the degree of discipline, if any, to be imposed on respondent,
23 Complainant alleges that on or about September 15, 2007, at approximately 11:04 p.m.,
24 respondent was arrested in Rancho Cucamonga for driving under the influence. A preliminary
25 alcohol screen indicated respondent had been driving with a blood alcohol content of 0.107
26 percent and 0.113 percent. Additionally, respondent was driving with a suspended California
27 Driver's License.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking or suspending Respiratory Care Practitioner License No. 20578, issued to Mark L. Ford, R.C.P.;
2. Ordering Mark L. Ford, R.C.P. to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: June 11, 2008

Original signed by:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant